

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

| | | |
|------------------------|---|-----------------|
| EUGENE GARCIA, | § | |
| | § | |
| Plaintiff, | § | |
| | § | |
| v. | § | No. 5:15-cv-852 |
| | § | |
| CONN APPLIANCES, INC., | § | |
| | § | |
| Defendant. | § | |

PLAINTIFF'S COMPLAINT

EUGENE GARCIA (Plaintiff), through his attorneys, KROHN & MOSS, LTD., alleges the following against CONN APLLIANCES, INC. (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on Telephone Consumer Protection Act, 28 U.S.C. § 227 *et seq.* (TCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this Court over Plaintiff's Complaint arises pursuant to 28 U.S.C. § 1331.

3. Because Defendant conducts business in the State of Texas, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

PARTIES

5. Plaintiff is a natural person who resides in Somerset, Texas.

6. Plaintiff is informed, believes, and thereon alleges, that Defendant is a national company with a business office in Dallas, Texas.

7. Defendant acted through its agents, employees, officers, members, directors, heirs,

successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

8. In or around 2015, Defendant began constantly and consistently placing telephone calls to plaintiff in an attempt to collect a debt an alleged debt.

9. Defendant places telephone calls to Plaintiff on Plaintiff's cellular telephone at 480-580-12XX.

10. Defendant places telephone calls from numbers including, but not limited to, 409-291-8588, 409-299-3557, 409-291-5136, 409-299-4593, 409-761-5431, 520-979-3730, 409-291-5844, 409-291-5870, 409-291-5864, 409-291-7003, 409-291-5067, 409-291-5135, and 409-291-5137.

11. Based upon the timing and frequency of Plaintiff's calls and per its prior business practices, each collection call placed by Defendant to Plaintiff was placed using an automatic telephone dialing system.

12. In or around March 2015, Plaintiff called Defendant and spoke to Defendant's representative.

13. During the course of the telephone conversations in or around March 2015, Plaintiff requested that Defendant cease placing calls to his cellular telephone.

14. On or around May 1, 2015 at approximately 1:00pm Central Time, Plaintiff spoke to Defendant's representative, "Ashley," made a payment arrangement, and requested that Defendant cease placing calls to his cellular telephone.

15. Plaintiff revoked any consent, either explicitly or implicitly, to receive automated telephone calls from Defendant on his cellular telephone in his conversations with Defendant.

16. Despite Plaintiff's request to cease, Defendant placed at least fifty-four (54) collection calls to Plaintiff.

COUNT I
DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

17. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).
18. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

19. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);
20. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);
21. All court costs, witness fees and other fees incurred; and
22. Any other relief that this Honorable Court deems appropriate.

Dated: September 30, 2015

RESPECTFULLY SUBMITTED,

KROHN & MOSS, LTD.

By: /s/ Ryan Lee

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